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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/145,690	09/02/1998	CHARLES J. LONG JR.	97-106CIP	6264

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EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 02/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/145,690

Applicant(s)

LONG JR., CHARLES J.

Examiner

Robin Hylton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,5-12,14,16-20 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5-12,14,16-20,22 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Claim Objections*

1. Claims 5,6,8,10,12,16,18, and 20 are objected to because of the following informalities: the claims depend directly or indirectly from canceled claims. The action on the merits is based on the presumption that the claims should depend directly or indirectly from the independent claims. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

2. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Which of the frangible elements set forth in claims 1 and 25 are intended to have a height greater than that of the elevated areas?

### *Claim Rejections - 35 USC § 103*

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1, 5/1, 6/1, 7/1, 22/1, 25, 5/25, 6/25, and 22/25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Percepied (US 5,609,263) in view of Sander et al. (US 5,487,481).

With respect to Percepied, closure top portion 3 has an annular skirt 3a having an internal screw thread 8, an inner annular sealing flange 10, and a tamper indicating ring 20 connected to said skirt by a frangible element 21 having an elevated area of the tamper indicating ring extending toward the depending skirt, said tamper indicating ring having at least one arcuate projection 24 and at least one non-removable member 23 breakably attached to the

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tamper indicating ring at a weakened area **22a**. The at least one arcuate projection **24** to the left of the slot **22** as seen in fig.2 cooperates with the non-removable member to fracture the weakened area **22a**. The at least one arcuate projection is arcuate in a circumferential direction extending around the tamper indicating ring (fig.1). The uppermost surface of the projection is a locking member. Perchepied does not teach at least one frangible element connected to the depending skirt from an elevated area.

Sander teaches a cap having a tamper indicating ring including an elevated area **22** having at least one frangible element connected to the depending skirt from the elevated area.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of at least one frangible element connected to the depending skirt from an elevated area of Perchepied. Providing additional frangible bridges between the tamper indicating ring and the cap skirt provides more stability of the engagement therebetween upon push-on application to a container neck (see col. 3, lines 1-5 of Sander).

5. Claims 11/1, 11/25, 14/11/1, and 14/11/25 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claims 1 and 25 above, and further in view of Montgomery (US 5,379,910).

Perchepied as modified teaches the claimed closure (and container) except for an annular bead extending from the closure skirt for engaging a sealing groove or a sealing bead on the exterior container neck.

Figures 3-5 of Montgomery teaches a closure comprising an annular bead **40** extending from the closure skirt for contacting at least a portion of the exterior container neck finish. The annular bead is seen as engaging a groove in fig.4 and a bead **30** in fig. 5.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the teaching of an annular bead extending from the closure skirt

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for contacting at least a portion of the exterior of the container neck finish, including a sealing groove or a sealing bead, to the modified closure of Perchepied. Doing so would provide an additional seal between the closure and the container.

6. Claims 17/1, 17/25, 19/1, and 19/25 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claims 1 and 25 in view of Repp et al. (US 5,593,055).

Perchepied as modified teaches the claimed closure except for the number of thread leads and the thread leads being segmented.

Repp teaches a container assembly comprising at least seven thread leads and that the threads can be segmented (col. 4, lines 40-46).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified closure of Perchepied with eight or nine thread leads, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art, and to make the threads segmented is an obvious variation of thread arrangement.

7. Claims 1, 5/1, 6/1, 7/1, 22/1, 25, 5/25, 6/25, 22/25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kern (US 4,448,319) in view of Perchepied and Sander.

Kern discloses a(n initially) snap-on, twist-off closure comprising a top portion, an annular depending skirt having an internal thread configuration, and an annular sealing flange depending from the top portion. Kern does not teach a tamper indicating ring.

Perchepied teaches it is known to provide a closure with a tamper indicating ring.

Sander teaches a cap having a tamper indicating ring including an elevated area 22 having at least one frangible element connected to the depending skirt from the elevated area

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for more stability of the engagement therebetween upon push-on application to a container neck (see col. 3, lines 1-5 of Sander).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the teaching of a tamper indicating ring to the closure of Kern as taught by Perchepied and Sander. Doing so would ensure the integrity of the container contents prior to use by the ultimate consumer.

8. Claims 9/1 and 9/25 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 or 25 above, and further in view Csaszar (US 4,343,408).

Kern as modified teaches the claimed closure (or container assembly) except for a sealing bead on the annular sealing flange.

Figure 6 of Csaszar teaches an annular sealing flange comprising an annular sealing bead for ensuring firm contact between the closure bead and the interior surface of the container neck (column 8, lines 3-6).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the teaching of an annular sealing flange comprising an annular sealing bead to the modified closure of Kern. Doing so would provide a sealing engagement with the internal surface of the container neck without an engagement between a majority portion of the annular sealing flange and the container neck.

9. Claims 11/1, 11/25, 14/11/1, and 14/11/25 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claims 1, 11/1, 11/25, and further in view of Montgomery.

Kern as modified teaches the claimed closure except for an annular bead extending from the closure skirt for engaging a sealing groove or a sealing bead on the exterior container neck.

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Figures 3-5 of Montgomery teaches a closure comprising an annular bead **40** extending from the closure skirt for contacting at least a portion of the exterior container neck finish. The annular bead is seen as engaging a groove in fig.4 and a bead **30** in fig. 5.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the teaching of an annular bead extending from the closure skirt for contacting at least a portion of the exterior of the container neck finish, including a sealing groove or a sealing bead, to the modified closure of Kern. Doing so would provide an additional seal between the closure and the container.

10. Claims 17/1, 17/25, 19/1, and 19/25 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 or 25 above, and further in view of Repp.

Kern as modified teaches the claimed closure except for the number of thread leads and the thread leads being segmented.

Repp teaches a container assembly comprising at least seven thread leads and that the threads can be segmented (col. 4, lines 43-46).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to further provide the closure of Kern with eight or nine thread leads, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art, and to make the threads segmented is an obvious variation of thread arrangement.

#### ***Allowable Subject Matter***

11. Claims 8/6/1, 10/8/6/1, 12/10/8/6/1, 16/12/10/8/6/1, 18/12/10/8/6/1, 20/18/12/10/8/6/1, 8/6/25, 10/8/6/25, 12/10/8/6/25, 16/12/10/8/6/25, 18/12/10/8/6/25, 20/18/12/10/8/6/25 appear to be allowable if rewritten to overcome the rejections under 35 USC 112, second paragraph, set

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forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

12. Claim 7/25 is allowable over the art of record.

***Response to Arguments***

13. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

14. This Office action is made non-final.

15. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

16. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. \_\_\_\_\_ is being facsimiled to The U.S. Patent and Trademark Office via fax number (703) 305-3579 on the date shown below:

Typed or printed name of person signing this certificate

\_\_\_\_\_

Signature\_\_\_\_\_

Date\_\_\_\_\_



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17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (703) 308-1208. The examiner can normally be reached on Monday - Friday from 8:00 a.m. to 2:00 p.m. (Eastern time).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on (703) 308-2572.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Bembry at (703) 306-4005.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

RAH

February 13, 2003



Robin A. Hylton  
Patent Examiner  
GAU 3727